

REMARKS

This responds to the Office Action mailed 26 July 2010. Independent claims 1, 28 and 45-48 are amended. New claim 61 has been added. Confirming amendments have been made to paragraph [0021] of the specification. Support for the amendments can be found in at least FIGS. 4-6 and the related description of those figures, including at least the description at pages 5-7 of the present specification and the amendments to the specification provided above. No new matter has been added.

Claim Objections and 35 U.S.C. §112 Rejections

Claim 45 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 45 has been amended above to address this formality.

Claim 45 stands objected to for a misspelling. Claim 45 is amended above to address this formality. Applicants request withdrawal of the objection.

Claim Rejections – 35 U.S.C. §103

Claims 1, 14-16, 28, 45-49, 52-54 and 57-59 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,767,356 to Kanner et al. Applicants respectfully traverse this rejection.

Independent claims 1, 28 and 45-48 are amended to recite that the first, second and third distal holes (the third distal hole also referred to as a “distal inlet port” or an “over insertion hole”) are defined in a sidewall of the dilator or the insertion sheath. Independent claim 1 as

amended recites “a third distal hole defined in the sidewall of one of the insertion sheath and dilator at a distal end of the vascular insertion assembly.” Independent claim 28 as amended recites “a third distal hole defined in the sidewall at the distal end of one of the dilator and insertion sheath.” Independent claims 45 and 46 as amended recite “the third distal hole is defined in the sidewall of the distal end of one of the dilator and insertion sheath.” Independent claim 47 as amended recites “a third inlet port defined in the sidewall of the distal end of one of the dilator and insertion sheath, the third inlet port being offset from the first and second inlet ports.” Independent claim 48 as amended recites “the over insertion hole is defined in the sidewall of the distal end of one of the dilator and insertion sheath.”

Kanner discloses with reference to FIGS. 20 and 20A an introducer 510 that includes a sheath 512 and a dilator 520. The dilator 50 includes a port that provides access to a blood marking passageway or lumen 540. The port is positioned distal of a distal end of the sheath 512. Blood flow in the lumen 540 may be visible at a proximal end of the dilator 520 to indicate that a distal end 516 of the dilator 520 is positioned within a vessel.

Kanner further discloses at col. 8, lines 51-59 that “an additional blood marking passageway (not shown) can be included proximal to the first blood marking passageway on the dilator or on the distal end of the sheath 512,” and that “the introducer 510 will include internal passageways (lumens) for blood marking and the guide wire.”

Kanner discloses with reference to FIGS. 33 and 34 a completely different embodiment that includes a pair of blood marking lumens 689A, 689B attached to an outer surface of a guide sheath 662. The blood marking lumens 689A, 689B include inlet portions 674, 675 that face in a forward direction.

Neither the embodiment of FIGS. 20-20A of Kanner nor the embodiment of FIGS. 33-34 of Kanner discloses or suggests a “third distal hole” (or “inlet port” or “over insertion hole”) at the distal end of the vascular insertion assembly, or a “third indicator” (or “proximal hole,” “outlet port,” or “over insertion indicator”) at a proximal end of the vascular insertion indicator, as required by claims 1, 28 and 45-48.

The Examiner contends that it would be obvious to one of ordinary skill in the art to modify the embodiment of FIGS. 20-20A of Kanner to include the ports of the blood marking lumens 689A, 689B in FIGS. 33-34 to provide a third distal hole or inlet port. The Examiner further contends that it would have been obvious to include additional blood marking lumens in the sheath or dilator to any other introducer embodiments in order to identify the insertion depth of a transluminal device, wherein the device can have a third distal hole and a third indicator hole. Applicants respectfully disagree.

Claims 1, 28 and 45-48 recite that the distal holes (or “inlet ports” or “over insertion holes”) are “defined in a sidewall” of the insertion sheath or dilator. None of the introducer embodiments disclosed by Kanner include more than two distal holes (or “inlet ports” or “over insertion holes”) defined therein. Furthermore, there is no disclosure of suggestion by Kanner of providing more than two such distal holes “defined in a sidewall” thereof. The embodiment of FIGS. 33-34 clearly provides a different port/hole structure at the distal end of the blood marking lumens 689A, 689B that is not “defined in a sidewall.” Therefore, Applicants submit that it would not be obvious to one of skill in the art to modify the embodiment of FIGS. 20-20A of Kanner with the features of FIGS. 33-34 to meet the limitations of claims 1, 28 and 45-48.

In view of the above, Applicants submit that Kanner fails to disclose or render obvious every limitation of claims 1, 28 and 45-48 and the claims that depend from them.

Claims 13, 21 and 60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kanner in view of U.S. Patent No. 6,626,918 to Ginn et al. Applicants respectfully traverse this rejection. Kanner fails to disclose or render obvious every limitation of claims 1 and 47 for at least the reasons discussed above. Ginn fails to remedy the deficiencies of Kanner as it relates to claims 1 and 47. Therefore, claims 13, 21 and 60 are allowable for at least the reason they are dependent upon an allowable base claim. Applicants do not otherwise concede the correctness of this rejection.

New Claims

New claim 61 depends from claim 1. Applicants submit that the prior art of record fails to disclose or render obvious every limitation of claim 61. Applicants request consideration and allowance of new claim 61.

Conclusion

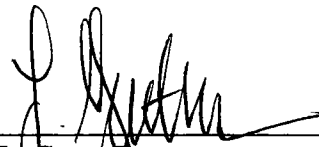
For at least the foregoing reasons, Applicants believe that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicants respectfully request a favorable action on the merits. If the Examiner has any further comments or suggestions, Applicants invite the Examiner to contact the undersigned attorney to expedite the handling of this matter.

Applicants expressly disclaim all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 08-2623.

Respectfully submitted,

Dated: 26 OCTOBER 2010



L. Grant Foster
Registration No. 33,236